To the Stockholders of the

Philadelphia Library Company.

The Committee appointed on the subject of the bequest of the late Dr. James Rush, respectfully report,

That without going into the consideration of points about which there is great diversity of opinion among the Stockholders, they have endeavored to reach conclusions that would prove satisfactory.

To this end, and in order to guide them in their labors, they by correspondence and conference with Henry J. Williams, Esq., the Executor of Dr. Rush, have sought for such information as would enable them to determine accurately what were his views as to the administration of so much of the trust as is placed in his charge, and what estate and income would probably be left to be applied by the Library Company when they should come to act as Trustee.

From Mr. Williams they have obtained the following statements. First, that the present cash value of the estate as appraised by Mr. Thomas Craven, is one million and sixty-seven thousand dollars. Second, that the net annual income, not including any rental for the mansion on Chestnut street (which is valued at one hundred and forty thousand dollars), is a little above forty thousand dollars. Third, that the site selected and purchased for the proposed Library Building, is the lot of ground on Broad street, bounded on the north by Christian street, on the south by Carpenter street, and on the east by Thirteenth street; being 300 feet front on Broad

street, by 527 feet deep on Christian and Carpenter streets. Fourth, that the building will be of the Greek–Doric order of architecture, about 80 to 100 feet front by 140 to 160 feet in depth, with wings of 20 to 30 feet in width, and an opening in the centre of the edifice of 20 to 25 feet in width, for light and air.

One of the main points on the part of the Committee, was to ascertain from Mr. Williams whether the question of the site was so open to discussion as that it might be changed to a different location within the limits originally selected by Dr. Rush.

His reply as to a change of site is emphatically in the negative. He states that the lot was bought for the purpose, by Dr. Rush himself, for $130,000, and that he feels bound in consequence thereof, to place the building thereon in order to comply with the directions of Dr. Rush.

He states further, that his own judgment as to the selected site, concurs with that of the testator, and therefore declines to entertain any proposition for a change.

As to the building itself, he says: that while the measurements were suggested to him by Dr. Rush, and accord with his present views, yet he is at liberty to change them, and will freely do so, if, in his judgment, it shall be necessary. The material of the building will be either granite or white Ohio sandstone.

By the terms of the Will, very large discretionary powers are given to Mr. Williams, and from his well-known character and long connection with the Library Company as a Director, it may safely be concluded that if the Company accept the bequest, they will be met in a liberal spirit.

The munificent provision made by Dr. Rush for the formation of a great public library, the confidence reposed in

the Company by him, in making them the Trustee of his residuary estate, and the fact that a fire-proof building for the reception of its literary treasures will be secured, should all combine to procure our co-operation to carry the plans of the testator into effect.

At present the executor considers himself bound to regard the Company as strangers, because he is not advised of their acceptance of the provision of the Will, or indeed of any such action on their part as would enable him to determine whether he shall erect a building suited for them and for the Ridgway branch of the Philadelphia Library, or whether he shall found and endow the Ridgway Library.

After a careful consideration of the whole case, the Committee think that in fairness to the Executor, the Company should decide at once whether they will accept or reject the bequest, and thereby relieve him from all embarrassment so far as they are concerned.

If the Company accept, they will at once place themselves in such relations with the Executor as to be able to influence to the fullest extent practicable, all his plans, and thus secure the erection of a building adapted for their use and the reservation of as large a fund for the purchase of books and the payment of current expenses, as the terms of the Will may permit.

It must be borne in mind that the views of the munificent testator were not limited to the present time, but are to extend over all time, as independently of the provision for the lot, building, expenses, &c.; all the principal of the annuities as it falls in, will become available for the purposes of the library.

It cannot be doubted that our Company is better fitted than any other corporation or any new one that might be

created, for the accomplishment of what Dr. Rush had at heart.

Our collection of the kind of books he favored is already large and will form a good foundation on which to build hereafter, and the modifications of our charter which he insists on as preliminary to clothing us with the care of his estate, are in the main judicious.

Nor do the Committee perceive any difficulty in making arrangements for the convenience of the Stockholders and the public, in keeping up a library on our present site or one more generally accessible, of the character used for circulation and for ordinary use in a reading-room.

Indeed the testator, by directing that his money shall be applied to the purchase of books for the Ridgway branch of the Library, has left to the discretion of the Company the disposition of its other property in such way as may be most beneficial to the public and the Stockholders.

The Committee, therefore, see no difficulty in carrying out the plan they propose for the adoption of the Stockholders, which in their judgment will be in harmony with the intention of Dr. Rush, as gathered from a fair and liberal construction of his Will, and with other duties and trusts which rest upon the Company; and with which, doubtless, Dr. Rush was quite familiar.

We think it may be assumed with great certainty, that Mr. Williams will be induced by the favorable action of the Company, to adopt such plans and make such arrangements as will put up the proposed building, at such cost as will leave about $300,000 for the payment of the annuities and the constitution of a fund for expenses and purchase of books.

When the annuities have all fallen in, and of course this will be a work of time, the capital of the fund will be at least

the amount above named, but it must be recollected that the estate consists mainly of real property, situated in the City of Philadelphia, and daily increasing in value by the growth of the City, so that a provision of $300,000, as the foundation, will soon be largely augmented.

Dr. Rush has undoubtedly had this in view when he provided so strictly against any hasty alienations of his real estate.

Everything, therefore, concurs in the judgment of the Committee, to make it advisable for the Company to become the Trustee of the estate.

The plan of the Committee is, First—That the Library Company shall become, by the acceptance of the bequest of Dr. Rush, the Trustee of his residuary estate, and apply it to the establishment of the Ridgway branch of the Philadelphia Library, in the building and on the site selected by the Testator and his Executor, in this way securing all the objects of Dr. Rush in a more ample manner than they would be by merely founding and endowing the Ridgway Library and leaving it to be determined in the future, whether it will be proper to place the whole library of the Company in the Ridgway building.

Second—That arrangements shall be made as early as practicable, for the erection of a fire-proof building on our present site or some other equally convenient place, of sufficient size and with such accommodations as will be required for a library such as has been hitherto kept for circulation and for ordinary use in the reading-room.

Third—That a committee shall be appointed for the purpose of consulting and advising with the Executor of Dr. Rush, as to the best and most economical plans for carrying

out the provisions of the Will, and for procuring such legislation as may be needed.

Appropriate resolutions for carrying these views into effect are herewith submitted.

The Committee cannot leave the subject that has been entrusted to them, without recommending also, that in the letter which shall communicate to the Executor of Dr. Rush the action taken by the Company on the munificent bequest made by his Will, the strongest assurances shall be given of the appreciation of the Stockholders of the confidence reposed in them by the Testator, and of their cordial willingness to unite and co-operate with the Executor in securing the most perfect and beneficial execution of the philanthropic intentions of the Testator.

Resolved, That the Stockholders of the Philadelphia Library Company do hereby accept the legacy of Dr. James Rush according to the terms expressed in his Will.

Resolved, That so much of the present collection of books and other property of the Company as may by the Directors be deemed expedient, shall be retained in the present or some other central position for general use and circulation.

Resolved, That a Committee to consist of three Stockholders and three Directors, shall be appointed for the purpose of consulting and advising with the Executor of Dr. Rush in carrying out the provisions of the Will, in procuring such legislation as may be needed, and also for carrying into effect the second resolution, by taking measures for securing the erection of a fire-proof building for the reception of those parts of the library so to be retained at such time and in such place as said Committee may determine.

Resolved, That a copy of the foregoing resolutions be transmitted to Henry J. Williams, Esq., the Executor of Dr.

James Rush, as the acceptance of this Company of the bequest made by his Will, and that the letter transmitting the same shall acknowledge the high appreciation by the Company of the confidence reposed in them by Dr. Rush, and of their cordial willingness to unite in carrying out in the most beneficial way, his philanthropic intentions.

By order and on behalf of the Committee.

FRED. FRALEY,
Chairman.

September 28th, 1869.

Know all Men by these Presents, That I,

do hereby appoint to be my substitute and proxy to vote on the 19th day of October, inst , on the Share in the LIBRARY COMPANY OF PHILADELPHIA,

standing in the name of on any of the Resolutions to be voted on, on that day, in pursuance of a Resolution of the said Company, passed at an adjourned meeting on the 5th inst.; and also so to vote at all subsequent meetings of the members and stockholders of said Company in respect to the acceptance or refusal of the devises and bequests contained in the Will of the late DR. JAMES RUSH, on the conditions therein contained, and the application for appropriate legislation to carry the same into effect, and on all questions which may be submitted at such meetings.

In witness whereof, I have hereunto set my hand and seal this day of October, 1869.

WITNESS PRESENT,

18

RESOLUTIONS

Upon which a Vote of the Members of the LIBRARY COMPANY OF PHILADELPHIA, *will be taken on Tuesday, the 19th of October, 1869, at the Library Rooms, between 10 A. M. and 4 P. M. The Resolutions will be voted on separately.*

Members are requested to write AYE or NO against each resolution as they may prefer to vote.

No. 1.

Resolved, That the Stockholders of the Library Company of Philadelphia do hereby accept the legacy of Dr. James Rush according to the terms expressed in his Will.

No. 2.

Resolved, That so much of the present collection of books and other property of the Company as may by the Directors be deemed expedient, shall be retained in the present or some other central position for general use and circulation.

No. 3.

Resolved, That a Committee to consist of three Stockholders and three Directors, shall be appointed for the purpose of consulting and advising with the Executor of Dr. Rush in carrying out the provisions of the Will, in procuring such legislation as may be needed, and also for carrying into effect the second resolution, by taking measures for securing the erection of a fire-proof building for the reception of those parts of the library so to be retained at such time and in such place as said Committee may determine.

No. 4.

Resolved, That a copy of the foregoing resolutions be transmitted to Henry J. Williams, Esq., the Executor of Dr. James Rush, as the acceptance of this Company of the bequest made by his Will, and that the letter transmittting the same shall acknowledge the high appreciation by the Company of the confidence reposed in them by Dr. Rush, and of their cordial willingness to unite in carrying out in the most beneficial way, his philanthropic intentions.

[The above resolutions are those reported by the Joint Committee of Stockholder and Directors. The following additional resolution is offered by Hon. Henry M. Phillips.]

No. 5.

Resolved, That the acceptance of the Stockholders of the Library Company of Philadelphia is upon the express provision that so much of the present collection of books and other property of the Company as may by the Directors be deemed expedient, shall be retained in the present or some other central position for general use and circulation.

To the Shareholders of the
Library Company of Philadelphia:

The undersigned, members on behalf of the Shareholders, of a Joint Committee of Directors and Shareholders, appointed on the subject of the bequest and legacy of the late Dr. James Rush, respectfully ask your attention to a few matters connected with the question of the acceptance or rejection of the munificent donation of the testator.

The value of the property bequeathed to the Library equals nearly one million, one hundred thousand dollars; and from its nature, we believe that it will considerably exceed that value, before it will become necessary to transmute it into money. We think that all will agree, that there is no institution more wanting in our large and beautiful city, than a great Public Library, in which may be collected for Public use, those works of literature and science, so necessary for intellectual development. In the magnificent donation of Dr. Rush, an opportunity is afforded to accomplish an object so much to be desired.

The reasons which should lead to the rejection of such a legacy, and thus defeat this great public good, ought certainly to be clear, grave and imperative. The Joint Committee of Directors and Shareholders has given those assigned, a long, most anxious, and careful scrutiny; and have come to the conclusion that none of them separately, nor all combined, are adequate to such a result.

The principal objection to the acceptance of the legacy arises from the proposed site of the "Ridgway Branch" of the Library. It is true that the Committee would have preferred a more central site for the building. But the Executor of Dr. Rush, both from the expressed wishes of the testator during his life, as well as from his own judgment of the suitableness of the selected site, is indisposed to change it. The committee did not enter into the consideration, whether the proposed site, situated as it is on the finest avenue of Philadelphia, might not at an early future be surrounded with the finest public and private structures, and thus become most eligible: Because a simple solution of the difficulty presented itself. This was to keep up and maintain our present Library on its present site, retaining in it all books of general circulation; transferring to the Ridgway Branch only such works as are sought for by students and profounder scholars, and if necessary, erecting a fire-proof building on our present, or some equally convenient site for the reception and distribution of works of general circulation.

Among the other objections to the legacy, is one, that the Library Company of Philadelphia cannot consistently with the Will of Dr. Rush, retain any portion of their books in their present building. None of the objections taken seem to us more unsound than this. The Library Company of Philadelphia, its property and estate, are totally different things from the "Ridgway Branch of the Philadelphia Library." Dr. Rush distinctly provides for their always being kept separate and apart. The accounts of the "Ridgway Branch of the Library Company of Philadelphia," are by the Will to be kept separate and distinct from "all other accounts of said Library Company." The books to be purchased for it, are to be of solid literary character. In the clause providing for the change of Trustees, in case of abuse of the trust, the books and furniture belonging to the Ridgway Branch of the Library are together with the other estate, to be transferred to the new Trustee. Without keeping the estate, property, books, &c., of the Ridgway Branch of the Library apart, the Will could not be carried into effect. In the opinion of the Committee, after the acceptance of Dr. Rush's legacy, the Library Company will continue in as full right of its property as it possessed before; and in no respect will it be mingled with, or embarrassed by, the property of the trust.

It is also urged, that the time has not yet arrived for the acceptance or refusal of the legacy, but that such election is only required to be made when the Library Building, intended by the Executor to be placed under the care of the Library Company of Philadelphia, is erected and completed. This position was not regarded by the Joint Committee as well founded. It is true that as part of the duties of his office, the Executor is directed to erect a library building, to be placed, when finished, in the care and control of the Company. But if the Library Company of Philadelphia should "omit or decline" the execution of the trusts of the Will, then the Executor is constituted a Trustee to "*found* and *endow* a Public Library, entirely distinct from the Philadelphia Library, to be named and called the Ridgway Library." The building he would erect for the Ridgway Library, would necessarily be a different one, in cost and extent, from one erected for the Ridgway Branch of the Philadelphia Library. Surely the Executor, having such a double duty to perform, cannot, under such circumstances, be required to expend the bulk of the estate in a building for the occupation of the Philadelphia Library, without knowing whether, when such building is completed, the Philadelphia Library will accept it, and enter into the execution of the trust. The Joint Committee, therefore, were of opinion that the Executor had the legal and moral right at once to know, what position the Philadelphia Library intended to assume, in regard to the acceptance or refusal of the trust, so as to enable him to carry out the alternative duty imposed on him by the Will, in the event of a refusal.

One or two other objections started, may be disposed of in a few words. It is said that under the language of the will, books might be introduced of questionable morality. But as no books can be placed on our shelves, except by the consent and with the approbation of the Directors, the high, social and moral character of these gentlemen, is a guarantee against such an imaginative danger.

There is nothing of practical value in the notion, that the Library Company may incur pecuniary liabilities, in accepting the simple execution of the trusts of the Will. The estate is immense, and will come into our hands free from debts or liabilities. The only obligation the Library Company will assume in accepting this trust, will be the obligation to execute its duties with fidelity. Your Committee therefore advise, that the first four resolutions, submitted to the stockholders, be voted on affirmatively.

The fifth resolution, if adopted, amounts to a rejection of the legacy, and was, it seems to us, so intended. Members, therefore, favorable to accepting the legacy, will of course write, No, opposite the last resolution.

As the vote on the 19th inst. is intended, to bring out the unbiassed opinions of the members, the Directors of the Company and their librarian, decline to take proxies, and those who have already signed proxies to vote at the meetings of the Company, are requested—if not able to go to the polls themselves—to sign the new proxies sent to them, and if in favor of acceptance, to forward the same by mail, to either of the undersigned.

FRED'K FRALEY, No. 417 Walnut street.
EDWARD KING, No. 315 S. Fifteenth street.
BENJ'N V. MARSH, No. 309 Market street.
WILLIAM W. LONGSTRETH, No. 2017 Chestnut street.
JOSEPH CARSON, M. D., No. 1120 Spruce Street.

CIRCULAR.

The Stockholders of the Library Company of Philadelphia are required, on the 19th of October, to vote on certain resolutions proposed at a meeting of Stockholders, held on the 6th instant.

We beg to call your attention to what we deem the material questions. Every one recognizes the importance of an adequate building for the Library, and also of an endowment for the purchase of books, especially those of the character recommended by Dr. Rush.

If this Company shall fail to accept the provisions of the Will, the only consequence will be that a building will be erected, endowed and administered, by persons not constituting the Directors of our Company. Every one will have the same use of the building and books that he can have, if this Company accepts the trust. And unless we are prepared to remove our whole collection to Broad and Christian streets, we can perceive no one motive for an acceptance. For we must still maintain two establishments; one at which our members can resort, and the other as a receptacle for books not intended for ordinary use, to be kept at the new building, which is to be in a remote place suitable for students to retire to, but so entirely out of the range of common people, as to practically destroy such use of it as we have been accustomed to.

The resolutions numbers 1, 2, 3, do appear to imply that our acceptance is conditional on our retention of the liberty to maintain *a* Library at another and convenient place.

But when it was proposed to vary these so far as to make that an express condition of acceptance, it was not agreed to, and we therefore call your attention to the fifth resolution, and ask you to vote for that, if you deem the right to select a location distinct from Broad and Christian, for any purposes important, and you should think it desirable to accept the trust, before required to do so under the directions of the Will.

We call attention to the fact, which no one will dispute, that our right to maintain a separate building, after acceptance, cannot depend on the assent of the Executor, but on the meaning of the Will. He has no power either to impose or release the obligations there defined.

There are other considerations we deem most weighty, in determining whether to accept this trust now. The Will gives to the Executor the absolute right to select the location and to construct the building, and this discretion has been exercised by selecting Broad and Christian streets as the *most suitable* spot in the City for the purpose.

When he has completed the building, the whole details of which he is bound to retain under his discretion, and which discretion he cannot trammel for the future by any agreement, even if he desires to do so, the Will directs him to convey it to the Company as Trustees, when they are to assume certain obligations. If they violate them, the building will pass into other hands, and with it, all books, if there shall be any, which have been purchased with the funds coming from Dr. Rush.

There are some of these conditions which deserve consideration, but might be submitted to as the price of a liberal endowment fund, if that were certain to exist. Such as, 1st, A prohibition to increase the number of our shareholders, which may result in the elective franchise being monopolized by a few who think they see some advantage in controlling this Corporation and its funds. 2d, A restriction on the qualification of Directors, which may result in great inconvenience. 3d, The doubt whether the testator has not made it imperative that if we accept, we shall use his building as the sole depositary for our books. That he expected it is pretty certain. Whether he makes it obligatory is a serious question; and this cannot be waived or released. But there are both express and implied conditions, which we greatly fear may be ruinous, of which it is absolutely out of the power of any man now to decide the effect, seeing they depend on a state of facts as they will exist many years hence.

The Will certainly in terms directs the whole of the estate, except a fund adequate to pay annuities, to be expended in the purchase of the lot and erection of the building.

There are those who think this is not the meaning of the Will, and we hope they may be right. But we fear that as the words are express, so does it appear to have been the final intention of the testator. If this be so, there will remain a fund yielding about $10,000 per annum, which the Company will begin to receive when and as the annuitants die, to maintain the expenses of this splendid edifice, and purchase books. If it be not so, there will remain so much as is not expended in building. The futility of estimated expenses of such an undertaking need not be remarked on.

This Company are now asked to assume these obligations, certain in liability, with absolute uncertainty of means, and also a duty to publish at least five editions of 500 each, of all Dr. Rush's works, and keep them for sale at cost.

We respectfully ask, should we, the representatives of the charitable contributions of several generations that have built up the present library, hazard these unnecessarily, by assuming these obligations before the time that we are required to decide, and before we can possibly know wherewithal we shall perform them. And for what are we asked to do this? Not to save property from being lost to the cause of literature, but to prevent the existence of a distinct institution under a separate management.

This is the worst that can happen, for all that the Executor asks can be attained without this peril. It is the advice of our Directors, that he wishes, and that only; he does not agree to be governed by it. He could not do so, for he, as trustee, must act on his own discretion, and how far he will regard these wishes may be inferred from the attention paid to the universal and earnest entreaties on the subject of location.

These questions are grave, and should be considered carefully.

In asking you to vote negatively on the first resolution, we are doing what the Directors, in conformity with the opinion of counsel, advised at the meeting of June 29th, 1869. A copy of the resolution then offered by Mr. McCall, on behalf of the Directors, and of the opinion of counsel upon which it was based, are hereto annexed.

The effect of such a vote is not to bind the Company ultimately to reject the trust, but only to leave the question open till the proper time, viz: when the building having been erected and offered, we can ascertain if there are any funds left to maintain it, and what are the conditions and obligations we will assume by acceptance.

If you think there ought to be an immediate acceptance, then we ask you to consider whether you are prepared to agree that all the books of the Company shall be kept at Broad and Christian streets; if not, and you wish to reserve the right to have some of them kept at a place which is accessible, then we ask you to vote for the fifth resolution.

To sum up—

We would advise that you vote upon the first four resolutions, *No*, and upon the fifth, *Aye*.

The result of this will be, that if contrary to our expectations, a majority should vote to accept the legacy, then the fifth reso-

lution, if carried, will make the acceptance *conditional* on the right of the Library Company to control the location of its own collection of books. On the other hand, if a majority vote to reject the legacy, the passage of the fifth resolution will be merely harmless.

Proxies can be sent to either of the following persons, viz: James S. Biddle, 234 South Third street; William M. Tilghman, 417 Walnut street; Richard C. McMurtrie, 416 Walnut street; Henry M. Phillips, 126 South Sixth street; S. Kingston McCay, 429 Walnut street. The proxies should be *witnessed*, as well as signed, and the persons above named, on receiving them, are to be considered as expressly instructed to vote in the manner above expressed.

Philadelphia, October 12, 1869.

H. PRATT McKEAN,
EDW. S. WHELEN,
J. A. McCREA,
HENRY M. PHILLIPS,
JAS. S. BIDDLE,
JOHN SAMUEL,
S. KINGSTON McCAY,
THOS. McEUEN,
JAS. M. AERTSEN,
R. RUNDLE SMITH,
WM. M. TILGHMAN,
R. C. McMURTRIE,
J. D. RODNEY.

Opinion of Counsel.

We are of opinion that the time for the Library Company to accept the devise under the Will of Dr. James Rush, has not arrived. Until the Executor shall have completed a building, and tendered a conveyance, the Company could do no more than to agree to accept at a future time; and we think such an agreement should not be made, until the real position of the affair, and the plans of the Executor, are better ascertained, and the consequences considered.

We think, therefore, that it is expedient to postpone for the present at least, any action by the Company in reference to the Will, other than the observance of those provisions which they are required to observe to avoid disabling themselves from accepting in accordance with the terms of the Will.

W. M. MEREDITH,
R. C. McMURTRIE,
GEO. W. BIDDLE.

Resolution of June 29th, 1869, offered by Peter McCall, Esq., on behalf of the Directors.

Resolved, That the Directors of the Library be and they are hereby authorized to accept the bequests and devises in Dr. Rush's will, if and when they shall deem it advisable so to do, and be authorized to procure any legislation necessary for the purpose.

Opinion of Counsel.

We are of opinion that the time for the Library Company to accept the devise under the Will of Dr. James Rush has not arrived. Until the Executor shall have completed a building and tendered a conveyance, the Company could do no more than [illegible] to accept at a future day; and we think such an agreement should not be made until the real position of the affairs and the plans of the Executor are better ascertained, and the consequences considered.

We think, therefore, that it is expedient to postpone for the present at least, any action by the Company in reference to the Will, other than the observance of those provisions which they are required to observe to avoid disabling themselves from accepting in accordance with the terms of the Will.

WM. M. MEREDITH,
R. C. McMURTRIE,
GEO. W. BIDDLE.

Resolution of June 7th, 1869, offered by Peter McCall, Esq., on behalf of the Directors.

Resolved, That the Directors of the Library be and they are hereby authorized to accept the bequests and devises in Dr. Rush's will, if and when they shall deem it advisable so to do, and be authorized to procure any legislation necessary for the purpose.